

LAWRENCE M. BICKEL, on behalf
of himself and others similarly situated,

Plaintiff,

V.

SHERIFF OF WHITLEY COUNTY
(in his official capacity),

Defendant.

CAUSE NO.: 1:08-CV-102-TS

ORDER

The Plaintiff, Lawrence M. Bickel, on behalf of himself and others similarly situated, has sued the Sheriff of Whitley County in his official capacity pursuant to 42 U.S.C. § 1983. Citing *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975), and *County of Riverside v. McLaughlin*, 500 U.S. 44, 56 (1991), the Plaintiff alleges that the Sheriff's practice of detaining persons who have been arrested without a warrant until the one and only day of the week that the courts in Whitley County conduct initial criminal proceedings violated the Fourth Amendment rights of the Plaintiff and others to a prompt judicial determination of probable cause. Both the Defendant's liability for its confinement policy and the maintenance of the action as a class pursuant to Rule 23 have been established and determined.

Pursuant to 28 U.S.C. § 636(b)(1)(B), Federal Rule of Civil Procedure 72(b), and Local Rule 72.1, the Plaintiff's Motion for Approval of Notice to Class Members, Claim Form, and Request for Payment [ECF No. 102] came before the Magistrate Judge for the issuance of a Report and Recommendation. On December 27, 2010, Magistrate Judge Roger Cosbey issued a Report and Recommendation setting forth a recommendation that Plaintiff's Motion be granted

and the notice costs be shifted to the Defendant.

This Court's review of the Magistrate judge's Report and Recommendation is governed by 28 U.S.C. § 636(b)(1)(C) which provides in part:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate. The judge may also receive further evidence or recommit the matter to the magistrate with instructions.

Objections to the Magistrate's Judge's Report and Recommendations must be made within fourteen days of service of a copy of the Report. *Id.*; Fed. R. Civ. P. 72(b). The parties have not filed objections to the Magistrate Judge's Report and Recommendation.

Upon review of the parties' submissions and the Report and Recommendation, the Court ACCEPTS the Report and Recommendation [ECF No. 106] and GRANTS the Plaintiff's Motion for Approval of Notice to Class Members, Claim Form, and Request for Payment of Notice of Defendant [ECF No. 102]. The Legal Notice of Class Certification [ECF No. 102-1] and Claim Form [ECF No. 102-2], which are attached to the Motion, are approved for use in this case. The Defendant is ordered to pay the reasonable expenses related to serving the Notice and for class members returning Claim Forms.

SO ORDERED on January 11, 2011.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT